

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Cause No. 1:22-CR-00006-JPH-KMB
ZAIVEON PERRY,)	
)	
Defendant.)	

GOVERNMENT’S SENTENCING MEMORANDUM

Comes now the United States of America, by counsel, Zachary A. Myers, United States Attorney for the Southern District of Indiana, and Peter A. Blackett, Assistant United States Attorney, and respectfully submits this Sentencing Memorandum.

I. INDICTMENT AND PLEA OF GUILTY

On January 4, 2022, Zaiveon Perry (Perry) was charged in an Indictment with Possession of a Machinegun in violation of 18 U.S.C. §922(0). (Dkt. 1). On October 07, 2022, the parties filed a Petition to Enter a Plea of Guilty and Plea Agreement. (Dkt. 27). Under the terms of the plea agreement, Perry agreed to enter into a plea of guilty to Count One, Possession of a Machinegun. *Id.* The Government agreed to recommend a sentence at the low end of the advisory guideline range determined by the Court. *Id.* Probation completed a Pre-Sentence Investigation Report (PSR) and determined that the applicable guideline range is 24-30 months’ imprisonment. (Dkt. 32 at 11). Neither the Defense nor the Government had any objections to the PSR. *Id.* at 16.

II. FACTS

The following facts were outlined in the Petition to Enter Plea of Guilty and Plea Agreement. (Dkt. 27 at 7-9).

In April of 2021, The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) agents assigned to the Indianapolis-Crime Gun Intelligence Center (CGIC) were contacted by Indiana State Police (ISP) detectives regarding Perry selling fully automatic weapons and quantities of marijuana in Indianapolis, Indiana and Chicago, Illinois. Agents located Perry's social media account and observed Perry posting fully automatic Glocks for sale.

On July 28, 2021, ATF Special Agents (SA) assisted ISP with a CI purchase of a firearm. ATF and ISP established surveillance on the target location, 2906 S. Taft Avenue, Indianapolis, Indiana. The ISP CI was instructed to come to the residence to purchase a fully automatic Glock pistol for \$3,250. Perry raised the price from the original price of \$2,500 during the two days of negotiating. During the original conversation the CI was going to purchase marijuana and the Glock "switch". However, after the price was raised on the Glock "switch" the CI negotiated to purchase only the Glock "switch" for \$3,250. ISP provided the additional \$750 in official funds to purchase the Glock "switch", these funds were originally intended for the marijuana.

This controlled purchase of the firearm was captured on the ISP covert audio and video system. The CI successfully purchased a Glock, 22 GEN4, .40 caliber pistol, serial number BGWX303, with a "conversion switch" attached to it. Perry explained to the CI that the firearm would function in a fully automatic capacity. This transaction took place in Perry's vehicle (black BMW with a paper registration L970504) parked in front of 2906 S. Taft Avenue, Indianapolis, Indiana. This location is within the Southern District of Indiana.

After the transaction was completed, investigators were able to follow Perry from the area and observed him use keys to enter an apartment (4907 Red Horizon Blvd, Indianapolis IN 46221). The above-described firearm was turned over to ISP detectives from the CI. ATF SAs observed the Glock and a function check showed that it appeared to function as a fully automatic weapon.

On August 20, 2021, ATF SA Sullivan received a laboratory report from the Indiana State Police in reference to the function testing of the Glock firearm with attached switch purchased from Perry. The ISP lab determined that the Glock, model 22Gen4, .40 caliber pistol, serial number BGWX303, “was found to always fire in fully automatic mode.”

On January 6, 2022, Perry was placed under arrest for Possession of a Machinegun. Perry was read his *Miranda* rights and agreed to speak to ATF SA Sullivan. Perry admitted to selling at least seven Glock firearms with Switches attached. Perry admitted that he knew the switch made the firearm fully automatic and that he would advertise and sells these firearms on Snapchat.

III. ARGUMENT

Perry’s guidelines properly represent his conduct during this incident. The guidelines include a base offense level of 18 because the firearm was a machinegun. (Dkt. 32 at 5). Perry’s guidelines also include a two-level enhancement for seven firearms being involved in this offense. *Id.* Perry’s conduct selling fully automatic firearms in this community is completely unacceptable. It is bad enough using a switch to turn a semi-automatic firearm into a fully automatic machinegun, but then to sell the machineguns over social media is completely reckless.

While Perry’s conduct was egregious it should be noted that he has no prior criminal history or arrests. *Id.* at 6. In addition, when Perry was arrested, he agreed to give a statement

and immediately admitted this his conduct. The government believes that a sentence at the low-end of the advisory guideline range is appropriate.

Wherefore, based on the foregoing, The United States requests that this Court sentence the Defendant, Zaiveon Perry to 24 months' imprisonment.

Respectfully submitted,

ZACHARY A. MYERS
United States Attorney

By: s/ Peter A. Blackett
Peter A. Blackett
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2023, a copy of the foregoing Government's Sentencing Memorandum was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

By: s/ Peter A. Blackett
Peter Blackett
Assistant U.S. Attorney
United States Attorney's Office